

SUPPORT FOR THE AMENDMENTS

Claims 1-7, 11-18, and 22 have been amended.

Claims 2, 8-10 and 19-21 have been canceled.

Support for the amendment of Claims 1-7, 11-18, and 22 is provided by the corresponding claims as originally presented, as well as the specification at, for example, page 79, line 25 to page 80, line 2.

No new matter has been added by the present amendment.

REMARKS

Claims 1, 3-7, 11-18, and 22 are pending in the present application.

The rejection of Claims 1-14 and 18 under 35 U.S.C. §112, first paragraph (enablement), is obviated by amendment.

The Examiner rejects the claims alleging that the specification has not enabled “solvates” Applicants make no statement with respect to the propriety of this ground of rejection and in no way acquiesce to the same. Nonetheless, to expedite examination of this application, Applicants have amended the claims to replace “solvate” with “hydrate”. Applicants submit that the skilled artisan would readily appreciate that the formation of a hydrate is easily generated when water is absorbed by the compound. As such, this ground of rejection is believed to be moot.

Withdrawal of this ground of rejection is requested.

The rejections of: (a) Claims 1-3, 5, 7, 9, 11, 14, and 18 under 35 U.S.C. §102(b) over Asproni et al; (b) Claims 1-3, 5, 7, 9, 11, and 18 under 35 U.S.C. §102(b) over WO 03/027076; (c) Claims 1-3, 5, 7, 9, 11, 12, and 18 under 35 U.S.C. §102(a) over US 2004/0063691; and (d) Claims 1-3, 5, 7, 10, 11, 12, and 18 under 35 U.S.C. §102(e) over WO 04/026301, are respectfully traversed.

In each of the compounds cited by the Examiner in Asproni et al, WO 03/027076, US 2004/0063691, and WO 04/026301 Ar1 and Ar2 are both phenyl groups that may be substituted. Without making any statement with respect to the propriety of the Examiner’s rejections or acquiescing to the same, Applicants have amended the claims to require that at

least one of Ar1 and Ar2 is a 6-membered aromatic heterocyclic group which may have a substituent and that formula (1) is formula (c).

Applicants submit that none of Asproni et al, WO 03/027076, US 2004/0063691, and WO 04/026301 disclose a compound within the scope of the claimed invention.

Accordingly, these references do not anticipate the claimed invention.

In view of the foregoing, withdrawal of these grounds of rejection is requested.

The Examiner has rejected Claims 1, 3, 4, 6, 10-14, and 18 over Claims 1-4, 8, and 11-14 of U.S. 11/577,476 under the doctrine of obviousness-type double patenting. Applicants make no statement with respect to the propriety of the Examiner's rejection and/or the remarks made in maintaining the rejection and in no way acquiesce to the same. Noting that U.S. 11/577,476 is still pending and the scope of the claims in this application or co-pending U.S. 11/577,476 may be changed, Applicants request that the rejection be held in abeyance until an indication of allowable subject matter in the present application. If necessary, a terminal disclaimer will be filed at that time.

The Examiner is again reminded that MPEP §804 indicates that: "If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer."

The objection to the claims as containing non-elected subject matter is traversed. The Examiner is reminded that Claims 1-14 and 18 were subject to an election of species requirement. Upon allowability of the elected and expanded scope of elected subject matter, the Examiner should continue the examination to include other non-elected subject matter.

Thus, this objection is obviated by the amendments and remarks herein, as the Examiner should expand the scope of examination to the remaining scope of Claims 1-7, 11-14, and 18. Withdrawal of this ground of objection is requested.

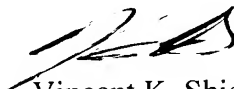
Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)



Vincent K. Shier, Ph.D.
Registration No. 50,552